



AUTORITATEA NAȚIONALĂ DE REGLEMENTARE ÎN DOMENIUL ENERGIEI

Cabinet Președinte



SENATUL ROMÂNIEI

Domnului MARIO-OVIDIU OPREA, Secretar General

112. 133 765 / 21.09.2026

Directorat General al Senatului

470 / 21 septembrie 2026

Ref: adresa dvs. nr. 3957/26.08.2026 privind *Propunerea legislativă pentru modificarea și completarea Ordonanței de Urgență a Guvernului nr.21/2022 privind instituirea cadrului legal pentru acordarea unui ajutor de stat pentru restructurarea Societății "Complexul Energetic Oltenia"- S.A. (B470/2026)*

Biroul permanent al Senatului

576. / 28.09.2026

Stimate Domnule Secretar General,

Ca urmare a solicitării dvs. menționată în referință, înregistrată la ANRE cu nr. 117792/31.08.2026, referitoare la *Propunerea legislativă pentru modificarea și completarea Ordonanței de Urgență a Guvernului nr.21/2022 privind instituirea cadrului legal pentru acordarea unui ajutor de stat pentru restructurarea Societății "Complexul Energetic Oltenia"- S.A. (B470/2026)*, vă comunicăm următoarele:

Modificările propuse vizează restructurarea granturilor acordate Societății „Complexul Energetic Oltenia” în scopul finanțării cheltuielilor cu certificatele de gaze cu emisii de efect de seră, includerea respectivelor sume în bugetul de stat pentru 2027, tragerile din împrumuturile destinate acoperirii anumitor cheltuieli.

Semnalăm faptul că, urmare a transmiterii de către Ministerul Energiei a unui plan de restructurare a Societății "Complexul Energetic Oltenia", Comisia Europeană a deschis o investigație pentru a evalua dacă modificările propuse de România sunt conforme cu normele Uniunii Europene privind ajutoarele de stat, iar această investigație este încă în desfășurare potrivit comunicatului publicat pe pagina DG Competition (C (2026) 1186 din 27.02.2026) – și anexat prezentei pentru informare.

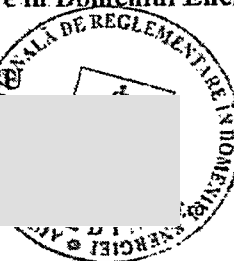
În lumina celor mai sus precizate, ANRE nu susține adoptarea propunerii legislative în forma prezentată.

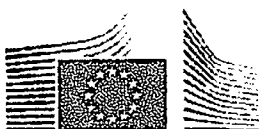
Cu deosebită considerație,

Președintele Autorității Naționale de Reglementare în Domeniul Energiei

George - Sergiu NICULESCU

Sr. Constantin N
Tel: (021) 327 8100, Fax:





EUROPEAN COMMISSION

Brussels, 27.2.2026
C(2026) 1186 final

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]

PUBLIC VERSION

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Subject: State Aid SA.117913 (2026/C) – Romania
Modification of restructuring plan of CE Oltenia (amendment to SA.59974)

Excellency,

The Commission wishes to inform Romania that, having examined the information supplied by your authorities on the aid measure referred to above, it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union.

1. PROCEDURE

- (1) By its decision of 26 January 2022, the Commission approved a EUR 2.66 billion restructuring aid for Complexul Energetic Oltenia SA ("CE Oltenia") (the "Decision")⁽¹⁾. In the Decision, the Commission found that the restructuring aid to CE Oltenia was compatible with the internal market pursuant to Article 107(3), point (c), of the Treaty on the Functioning of the European Union ("TFEU"), in light of the Guidelines on State aid for rescuing and restructuring non-financial

⁽¹⁾ OJ L 263, 10.10.2022, pp. 21–58.

Ms Oana-Silvia Toiu
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undertakings in difficulty (the "R&R Guidelines")⁽²⁾; subject to conditions⁽³⁾. In particular, the Decision requires Romania to ensure that CE Oltenia fully implements the measures provided for in the restructuring plan (the "Initial Restructuring Plan")⁽⁴⁾, as well as related measures intended to limit the distortions of competition caused by the restructuring aid, within the timelines set out in the Initial Restructuring Plan or, as appropriate, at the latest by the end of a restructuring period ending on 31 December 2026⁽⁵⁾.

- (2) On 23 December 2025, following prenotification contacts, Romania notified to the Commission a modification of CE Oltenia's Initial Restructuring Plan (the "Modified Restructuring Plan") with an increase of the restructuring aid of EUR 202 million.
- (3) Romania agreed exceptionally to waive the rights deriving from Article 342 TFEU in conjunction with Article 3 of the EC Regulation 1/1958 and to have this decision adopted and notified pursuant to Article 297 TFEU in English.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The request of the Romanian authorities

- (4) The Decision approved the restructuring aid in 2022, on the basis of the Initial Restructuring Plan covering the period from 2021 until the end of the restructuring period, on 31 December 2026 and subject to conditions set out in Article 2 of the Decision. The conditions which Romania had to implement by the end of that period at the latest were: i) phase-out of lignite capacity; ii) workforce reduction; iii) gradual decrease of CO2 emissions; iv) share capital reduction and subsequent share capital increase; v) establishment of special purpose vehicles ("SPVs") for the new investments; vi) signature of financing agreements with banks (up to EUR 350 million); vii) spin-off of Craiova power plant; viii) creation of a "lignite subsidiary" and (ix) divestment of no less than 20% of CE Oltenia's shares.
- (5) Romania submits that several closures of mining pits and production capacities, the spin-off of the Craiova power plant, the establishment of the SPVs created in relation to the renewable projects, the capital reduction and partially the capital increase were implemented within the timeline set out in the Decision. However, several closures of mining pits and production capacities, the creation of a "lignite subsidiary" encompassing lignite related production assets, the decrease in personnel, which has actually increased with temporary staff, the decrease in CO2 emissions, which have increased, the signature of bank agreements and the sale of 20% of the shares of CE Oltenia have not been implemented so far.
- (6) For this reason, Romania notified the Modified Restructuring Plan which provides for the following modifications of the Initial Restructuring Plan: (i) a three-year extension of the restructuring period until the end of 2029 instead of 2026 due to delays in the decommissioning of lignite capacities and in the commissioning of new production capacities as well as in closing related mining pits and in

⁽²⁾ OJ C 249, 31.7.2014, pp. 1–28.

⁽³⁾ Article 9(4) of Council Regulation (EU) 2015/1589, OJ L 248, 24.9.2015, pp. 9–29.

⁽⁴⁾ Commission Decision (EU) 2022/1920 of 26 January 2022 on the State aid SA.59974 – 2021/C in particular, Article 2; OJ L 263, 10.10.2022, pp. 21–58.

⁽⁵⁾ Decision, Article 2.

rehabilitating a micro hydropower plant (as illustrated in Tables 1-3), and (ii) an increase in the approved aid, from ca. EUR 2.66 billion to ca. EUR 2.86 billion.

2.1.1. Extension of the timelines of the restructuring plan

- (7) In line with the Decision, CE Oltenia has to achieve a progressive phasing-out of all lignite production capacities through the closure or temporary conservation as reserve (Article 2.1(a) of the Decision) at the latest by the end of 2026, coupled with the closure of mining pits by the end of 2025 (see recital (73) of the Decision). The decommissioning of capacities has to be made without prejudice to the capacities to be decommissioned as stipulated in the National Recovery and Resilience Plan of Romania (see recital (74) and Article 2(1)(a) of the Decision).
- (8) The Decision also provides that the decommissioning of lignite fuelled plants and capacity would be partly counterbalanced by the installation of eight photovoltaic parks to be operational by 2024, two natural gas-fired power blocks ("CCGT") to start their operations by mid-2026 and the rehabilitation of a micro hydropower plant by 2023 (see recitals (70) and (71) of the Decision).
- (9) The total new installed capacity of 2 060 MW was expected to lead to a net available capacity of 1 435 MW (considering an average utilisation factor of [...]%) (see recital (72) of the Decision), while with CE Oltenia's participation in SPVs ranging between 45-50%, a net available capacity of approximately [...] MW was expected to be open to market competitors via their participation in the SPVs (see recital (110) of the Decision).
- (10) Romania explains that CE Oltenia has decommissioned four out of ten lignite-fired electricity generation units and thus structurally reduced its market presence.⁽⁶⁾ The Modified Restructuring Plan provides that [...] Units will continue to operate on the electricity market on regular basis; [...] would be kept as technical reserve, generating electricity if called. Accordingly, CE Oltenia would keep a lignite-fired capacity of 1 650 MW remaining until the end of 2029.
- (11) Romania submits that the extended timeline of decommissioning the lignite-fired capacity allows synchronising the phase-out with the delayed commissioning of new capacities. To meet the demand on electricity and prevent any shortages, Romania submits that it is important to first start operating the new capacities before closing the old ones. The two CCGT power plants and eight photovoltaic parks as well as the modernisation of the micro hydroelectric power plant are now expected to be in operation between 2026-2029 (see Table 2).
- (12) Tables 1 and 2 present the schedule of commissioning and decommissioning CE Oltenia's production capacities, as set out, respectively, in the Initial Restructuring Plan and in the Modified Restructuring Plan:

⁽⁶⁾ Romania's submission of 23 December 2025, *Modified Restructuring Plan*, p. 13 and 175.

Table 1 - Commissioning and decommissioning schedule for CE Oltenia's production capacities according to the Initial Restructuring Plan

Production capacities	2018	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
SE PLOU - Unit 1											
SE PLOU - Unit 2											
SE PLOU - Unit 3											
SE PLOU - Unit 4											
SE PLOU - Unit 5											
SE PLOU - Unit 6											
SE PLOU - Unit 7											
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SE PLOU - Unit 95											
SE PLOU - Unit 96											
SE PLOU - Unit 97											
SE PLOU - Unit 98											
SE PLOU - Unit 99											
SE PLOU - Unit 100											

Source: Decision, Table 2

Table 2 - Commissioning and decommissioning schedule for CE Oltenia's production capacities according to Modified Restructuring Plan

Capacity name	Owner	Installed capacity (MW)	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rovinari - Group 1	CEO	235																	
Rovinari - Group 4	CEO	235																	
Rovinari - Group 5	CEO	130																	
Rovinari - Group 6	CEO	330																	
Turceni - Group 1	CEO	330																	
Turceni - Group 4	CEO	330																	
Turceni - Group 5	CEO	335																	
Turceni - Group 7	CEO	330																	
Husiaria - Group 1	CEO	313																	
Husiaria - Group 8	CEO	334																	
Cravova - Unitatea 1	CEO	150																	
Cravova - Unitatea 2	CEO	150																	
PV plant - Rovinari Ext	CEOPROM	133																	
PV plant - batavia	CEOPROM	83																	
PV plant - Tamasoaia 1	CEOPROM	161																	
PV plant - Tamasoaia 2	CEOPROM	141																	
PV plant - Ploiesti	CEOTINMAR	65																	
PV plant - Boboiescu	CEOTINMAR	19																	
PV plant - SE Rovinari	CEOTINMAR	57																	
PV plant - SE Turceni	CEOTINMAR	47																	
CCGT - Turceni	CEOTINMAR	474																	
CCGT - batavia	CEQUAL RO	350																	
Microhydro	CEO	16																	
Total installed capacity			3570	2935	3955	2235	1705	1645	6630	1870	2110								

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Table 3 - Exit calendar for the mining pits of CE Oltenia according to the Modified Restructuring Plan

UMC	2021	2022	2023	2024	2025	2026	2027	2028	2029
Rosia									
Tismana									
Pinoasa									
Jlt Sud									
Jlt Nord									
Rosiuta									
Lupoara									
Husnicloara									
Pesteana Nord									
Total delivered coal (mil.tonne)									
Coal delivered internally (mil.tonne)									
Coal delivered externally (mil.tonne)									
Electricity production (TWh)									

Source: Romania's submission of 23 December 2025, *Modified Restructuring Plan*, Figure 36

- (14) According to Romania, these adjustments are strictly necessary due to objective and external factors beyond Romania's and CE Oltenia's control, such as the energy crisis, the difficult geopolitical and macroeconomic context primarily linked to the war in Ukraine and administrative delays (Section 2.1.2), and have the purpose to make CE Oltenia viable again ⁽⁸⁾.

2.1.2. *The main reasons for the delayed implementation of the Initial Restructuring Plan.*

- (15) Romania explains that the implementation of the Initial Restructuring Plan encountered delays and bottlenecks caused by objective factors, such as (i) the geo-political and macroeconomic context due to the COVID-19 pandemic, the instability of energy markets, the outbreak of the war of aggression in Ukraine, increases in the price of CO2 certificates, as well as increased capital costs, (ii) lengthy award procedures for complex projects, investor attraction process for SPVs, appeals in procurement procedures, as well as legal, compliance and verification processes for investment projects in natural gas and renewable sources and (iii) difficulties in divesting non-core assets ⁽⁹⁾. According to the Romanian authorities, such events are exogenous, uncontrollable factors which directly affected the timing and feasibility of the Initial Restructuring Plan.
- (16) In particular, Romania submits that the role of natural gas as a transition fuel has led several European countries to initiate gas-based electricity production projects, which has led to a sharp increase in their demand. Prices and delivery times of equipment, turbines, compressors, steam generators have increased due to limited production capacity and competition with Liquefied Natural Gas (LNG), hydrogen and industrial applications. This led to delays in the development of new natural gas-based electricity production capacities, given the high demand compared to constrained supply worldwide.
- (17) With regard to the broader macro-economic context, Romania adds that the conflict-induced energy price shock has also fuelled inflationary trends, with the annual inflation rate in the EU reaching 11.5% in October 2022 - the highest level in decades - leading to delays due to additional conditions in the financing process.

⁽⁸⁾ Romania's submission of 23 December 2025, *Modified Restructuring Plan*, Section 4.

⁽⁹⁾ Romania's submission of 23 December 2025, *Modified Restructuring Plan*, Section 4.

- (18) In terms of geopolitical factors, Romania underlines that Russia's war of aggression against Ukraine on 24 February 2022 affected the European and national situation. Consequently, CE Oltenia, which also supports the energy security of countries in the region, such as the Republic of Moldova and partially Ukraine, through exports⁽¹⁰⁾, has been particularly affected by the conflict. Additional pressure on the energy systems across the Union also led to sharp price increases. In this context, ensuring energy security has become a strategic priority, and Romania, along with other Member States, adopted exceptional measures preserving or reopening fossil fuel-based production capacities.
- (19) Furthermore, Romania explains that the development of the new production capacities has taken longer than planned due to the complexity and duration of the procurement procedures regarding the selection of the general contractor. Romania submits that the Engineering, Procurement and Construction contracts were not signed on time for the following reasons: (i) the Commission's investigations into certain tender participants under the foreign subsidies rules between 3 April and 7 June 2024⁽¹¹⁾; (ii) appeals against the public procurement procedure and verifications by the Romanian National Agency for Public Procurement regarding the compliance with the public procurement procedures; (iii) market consultations required by the absence of bidders at the selection stages in public procurement, which determined the need to modify prices, contractual clauses, etc.; (iv) issues concerning the legitimacy of convening annual general meetings of shareholders and extraordinary general meetings of shareholders in the SPVs jointly owned by CE Oltenia and Tinmar Energy because Tinmar Energy transferred its shares in the SPV to Martin Oil Energy. Romania indicates that CE Oltenia did not agree with this transfer and brought the dispute against Tinmar to courts, which further delayed the implementation of the projects.
- (20) Another reason submitted by Romania refers to the delayed registration of the SPVs with the Trade Register (beyond 31 December 2022) in the case of ALRO and Tinmar due to: (i) the non-receipt, in the first stage of attracting investors, of any offer, which implied the resumption of the selection process, (ii) lengthy negotiations on the documents related to the creation of the SPVs (shareholder's agreements and Articles of Association), (iii) the investigation of the Competition Council⁽¹²⁾.

⁽¹⁰⁾ The Romanian Government ordered measures to ensure lignite stocks and reserve capacities, recognizing the essential role of CE Oltenia in energy security amid these crises conditions, whereby, for instance, in the winter season 2022-2023, the CE Oltenia groups were kept in operation at a high level of load, helping to cover the peak consumption and compensating for both the decrease in hydro and wind production, as well as the reduced availability of imports, see Romania's submission of 23 December 2025 *Modified Restructuring Plan*, Section 4, p. 86.

⁽¹¹⁾ On 3 April 2024, the Commission launched two in-depth investigations under Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L 330, 23.12.2022, pp. 1-45 (the "Foreign Subsidies Regulation") into two consortia bidding for the solar park in Rovinari, involving CE Oltenia and OMV Petrom, specifically looking at potential Chinese state support for bidders. After the companies announced their withdrawal from the tender, on 7 June 2024 the Commission closed the investigations, see <https://public-buyers-community.ec.europa.eu/news/commission-closes-two-depth-investigations-solar-photovoltaic-sector-following-withdrawal>.

⁽¹²⁾ On 14 March 2023, the creation of the SPVs was notified for clearance under the national merger rules to the Competition Council of Romania, which issued a Decision authorising the concentration on 24 May 2023, see Romania's submission of 23 December 2025 of the *Modified Restructuring Plan*, Annex A.4., pp. 218-219.

- (21) Finally, Romania reports difficulties in the sale of non-core assets⁽¹³⁾, including SE Chişcani and various real estate properties (e.g. service and auxiliary entities such as Hostel Miami, Complex Săcelu and other non-operating assets), as well as few immovable assets with marginal economic relevance, which were not divested yet because of low market interest, auction failures, and pending legal amendments for public utility assets within the Mining Branch⁽¹⁴⁾.

2.1.3. *Financing of the additional restructuring costs to be incurred*

- (22) The total restructuring costs of the Initial Restructuring Plan amount to EUR 3.94 billion (see recital (200) of the Decision). Romania committed to provide EUR 1.76 billion EUR (in the form of grants and loans), while the financing from the Modernisation Fund amounted to EUR 896 million (totalling EUR 2.66 billion). CE Oltenia was expected to contribute to the financing of the restructuring costs with EUR 1.28 billion (32% own contribution) stemming from bank loans (EUR 350 million), private participation in the SPVs (EUR 250 million), contribution in-kind in the form of land (EUR 104 million) and cashed-in revenues from sales (EUR 574 million).
- (23) The Modified Restructuring Plan shows that the restructuring costs, which are expected to be incurred until the end of the new restructuring period, are EUR [...] billion. Of this amount, the State will increase its contribution with EUR 202 million from the Modernisation Fund (totalling EUR 2.86 billion)⁽¹⁵⁾. The sources of the proposed additional own contribution, which totals EUR [...] billion (thus reaching, together with the funds already committed under the Initial Restructuring Plan, EUR [...] billion), are the following: EUR [...] million increase in bank loans, EUR [...] million decrease in co-investors' contributions, EUR [...] million increase in the in-kind contribution and EUR [...] billion increase in sale revenues.
- (24) The initial capital expenditures for the photovoltaic and CCGT new power plants under the SPVs were exceeded, resulting in an increase in the funds expected from the Modernisation Fund, which Romania notifies as additional aid. The increased total costs will also be financed by EUR 356 million additional bank loans to be borrowed by CE Oltenia and private partners. Romania submits that the Mandate Letters for the syndicated loans have been signed for the photovoltaic projects with the European Bank for Reconstruction and Development and for the gas projects with Romanian Commercial Bank (BCR) as coordinators of the syndication. Romania submits that currently both banks are performing the due diligence process which shall lead to signing of the syndicated loan agreements for the new investments.
- (25) Romania submits that the land which CE Oltenia contributed in-kind to the capital of the SPVs was reevaluated to EUR 204 million, instead of EUR 104 million, according to the valuation in the Initial Restructuring Plan.
- (26) Moreover, Romania includes as main own contribution additional revenues from electricity sale amounting to EUR [...] billion. According to the Modified Restructuring Plan, the revenues from electricity sales for the period 2021-2025

⁽¹³⁾ In addition to lignite-related downsizing, CE Oltenia committed to divest non-core subsidiaries and assets unrelated to its strategic transition to low-carbon generation, see Decision, recital (89).

⁽¹⁴⁾ Romania's submission of 23 December 2025 of the *Modified Restructuring Plan*, p. 21 p. 37, and Annex A.4 of the same plan p. 246-248.

⁽¹⁵⁾ Modernisation Fund of EUR 207 million minus EUR 5 million of land contribution of CE Oltenia.

would be approximately EUR [...] billion, whilst the net profits of CE Oltenia are estimated to be approximately EUR [...] million.

2.1.4. *Measures to limit distortion of competition*

- (27) The Decision requires the creation of the SPVs along with private investors and the subsequent decrease in the market share of CE Oltenia in generation capacities, which creates capacity available to competitors participating in the SPVs. According to recital (228) of the Decision, CE Oltenia's participation in the SPVs was expected to range between 45% and 50%. Currently CE Oltenia owns 50% of the shares in the eight solar projects and in CCGT Turceni, while it holds 59.9% of the shares in CCGT Isalnita.
- (28) Romania submits that, with the Modified Restructuring Plan, CE Oltenia is committed to maintain the competition measures, while continuing reducing its market presence during the (extended) restructuring period. Some of the lignite capacities have already been withdrawn, and the rest will be gradually phased out according to the new extended timeline until the end of 2029 (see recital (10)). CE Oltenia also continues its cooperation with partners as required in the Decision, which ensures the entry or growth of competitors on the market. Moreover, Romania specifies that there will not be an excessive overlap between the new capacities and the lignite capacities, as the largest part of the upcoming installed capacity - comprising the two CCGT power plants - is expected to become operational only from the second quarter of 2029 (see recital (11)).
- (29) With the notification of the Modified Restructuring Plan, Romania does not put forward additional structural measures to limit distortions of competition. However, it proposes the following two additional behavioural measures: i) no variable remuneration or bonuses for CE Oltenia's Board members and senior management during the restructuring period, ensuring that public support is strictly allocated to restructuring objectives; and ii) appointment of an independent monitoring trustee approved by the Commission, to oversee the implementation of the restructuring measures and ensure full compliance.

2.1.5. *Financial projections of the Modified Restructuring Plan*

- (30) According to the Modified Restructuring Plan, CE Oltenia is expected to post losses until the end of the extended restructuring period in 2029, mainly due to high staff and CO₂ costs. Financial indicators like EBIT margin, return on capital employed (ROCE) and return on equity (ROE) will remain [...] in the last year of the extended restructuring period, in particular with an EBIT margin of [...]%, a ROCE of [...]% and a ROE of [...]% ⁽¹⁶⁾.
- (31) After 2026 and thereafter, the projections include revenues from the eight photovoltaic plants and, from the second quarter of 2029, from the two CCGT plants as well. Income until 2029 is therefore expected mainly from existing units.
- (32) The main operating expenses include personnel costs and environmental costs. For the period 2025-2029, the staff costs are expected to range between [...]% and [...]% of total operating costs, while for the same period the environmental costs, which mainly include the purchase of CO₂ allowances, will span between [...]% and [...]% of the total operating costs. As of 2030, the environmental costs

(16): Romania's submission of 23 December 2025 of the *Modified Restructuring Plan*, Section 8.5.

decrease sharply as all the lignite plants should be closed. The costs for CO₂ allowances are calculated in the plan based on an average [70-80] EUR/ tonne.

- (33) The Modified Restructuring Plan expects CE Oltenia starting to reach long-term viability only as of 2030, when posting positive financial results (EBIT margin [...]; ROCE [...]; ROE [...])⁽¹⁷⁾.
- (34) The improvement in operating results starting as of 2030 results mainly from two drivers reducing operating costs expected until end 2029: an abrupt cessation of lignite mining⁽¹⁸⁾ from current [...] million tonnes delivered in 2024 to [...] million in 2029 and none in 2030, and a sharp decrease of staff costs⁽¹⁹⁾ from EUR [...] million in 2024 and EUR [...] million in 2029 to EUR [...] million in 2030.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of State aid

- (35) In the Decision, the Commission established that the EUR 2.66 billion restructuring aid to the beneficiary, including funding from the Modernisation Fund, constituted State aid within the meaning of Article 107(1) TFEU (see recitals (120) to (136) of the Decision).
- (36) The Modified Restructuring Plan provides for an additional support of EUR 202 million financed with the Modernisation Fund (see recital (23)).
- (37) The restructuring aid, including the additional amount of EUR 202 million financed with the Modernisation Fund is imputable to the State and financed through State resources for the same reasons as those detailed in Section 5.1.1 of the Decision. The aid confers a selective economic advantage to CE Oltenia for the same reasons as those detailed in Sections 5.1.2 and 5.1.3 of the Decision. Since CE Oltenia continues operating in the liberalised and interconnected electricity market in Romania, such funding is capable of affecting competition and trade between Member States, for the same reasons as those detailed in Section 5.1.4 of the Decision.
- (38) For these reasons, the Commission concludes at this stage that the restructuring aid, including the EUR 202 million additional amount of restructuring support constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Compatibility with the internal market

3.2.1. Findings of the Commission in the Decision

3.2.1.1. Contribution to the development of economic activities

- (39) In the Decision, the Commission concluded that, in line with Article 107(3), point (c), TFEU, the restructuring aid contributes to the development of economic activities of supply of electricity in the region of South-West Oltenia for the reasons detailed in Section 5.3.1 of the Decision. The restructuring aid averts market exit and supports the return to viability of an undertaking with systemic role therein, whose cessation of activities would involve social hardship in a

⁽¹⁷⁾ Romania's submission of 23 December of the Modified Restructuring Plan, Section 8.5,

⁽¹⁸⁾ Romania's submission of 23 December 2025 of the Modified Restructuring Plan, Figure 36.

⁽¹⁹⁾ Romania's submission of 23 December 2025 of the Modified Restructuring Plan, Section 8.5.

disadvantaged region with relatively high unemployment, provided that the beneficiary fully implements the Initial Restructuring Plan supported with the aid (see recitals (161) to (194) of the Decision), to which the additional restructuring aid also contributes.

3.2.1.2. Effects on competition and trade to an extent not contrary to the common interest.

(40). The Decision also concluded that the restructuring aid does not adversely affect trading conditions to an extent contrary to the common interest as required by Article 107(3), point (c), TFEU because its positive effects outweigh the distortions of competition and adverse effects on trade, for the reasons set out in recitals (195) to (237) of the Decision (Section 5.3.2 of the Decision). The Commission considered that the measures limiting distortions of competition put forward by Romania namely, (i) the closure of the lignite power units and mining pits and the creation of "the lignite subsidiary", (ii) creating SPVs for new investments, and (iii) the spin-off of Craiova appropriately mitigated negative effects (see recital (30) and Section 5.3.2.3 of the Decision) were appropriate for reducing the negative effects of the restructuring aid.

(41). The Commission therefore concluded that the restructuring aid was compatible with the internal market, subject to the conditions of compatibility of the restructuring aid set out in Article 2, in particular, that Romania ensures that CE Oltenia, within the timelines included in the Restructuring Plan or, as appropriate, at the latest by the end of the restructuring period, secures its long-term viability by fully implementing the measures included in that plan as well as the related measures limiting the distortions of competition set out as conditions of compatibility of the restructuring aid ⁽²⁰⁾.

3.2.2. *Impact of the modification and extension of the Initial Restructuring Plan on the Commission's assessment*

(42). The modification and extension of the Initial Restructuring Plan of CE Oltenia, supported with additional restructuring aid affects the original balance between positive and negative effects of the aid which the Commission found to be met in the Decision. To preserve the original balance, points 124 and 125 in section 7.2.2. of the R&R Guidelines set out conditions that the Commission deems appropriate for amendments of approved restructuring plans.

(43). Point 124 of the R&R Guidelines sets out the criteria for the Commission's assessment of requests of amendments to the restructuring plan and to the amount of aid and point 125 of the R&R Guidelines addresses the situations where the conditions imposed by the Commission or the commitment given by the Member State are relaxed. With regard to point 124 of the R&R Guidelines, letter a) requires that the beneficiary returns to viability within a reasonable time scale, letter b) requires that if the restructuring costs are increased, the own contribution must increase correspondingly, letter c) requires that if the amount of the aid is increased, measures to limit distortions of competition must be more extensive than those initially imposed; letter d) requires that if the proposed measures to limit distortions of competition are more limited than those initially imposed, the amount of the aid must be correspondingly reduced, and letter e) requires reductions of the amount of aid in case the beneficiary could have avoided delays

⁽²⁰⁾ Article 2 of the Decision.

in the implementation of competition measures, are of particular relevance to assess the request of the Romanian authorities.

- (44) The Commission might, therefore, agree to changes to CE Oltenia's Modified Restructuring Plan only if these conditions are met, which is assessed below.

3.2.2.1. The beneficiary must return to viability within a reasonable time scale.

- (45) According to point 124 (a) of the R&R Guidelines, the Modified Restructuring Plan must still show a return to viability within a reasonable time scale. Long-term viability is achieved – according to point 52 of the R&R Guidelines – when an undertaking is able to provide an appropriate projected return on capital after having covered all its costs including depreciation and financial charges.
- (46) In the present case, the Commission has doubts that the condition set out in letter a) of point 124 of the R&R Guidelines is met for the following reasons.
- (47) First, the Modified Restructuring Plan does not ensure a return to viability by the end of the restructuring period. Indeed, while the restructuring period ends in 2029, a return to long-term viability of the beneficiary can at best be envisaged as from 2030 (see recitals (33) and (34)), which post-dates the extended end of the restructuring period.
- (48) Second, the Commission has doubts that a return to viability of the beneficiary as from 2030, at the earliest nine years after the granting of the restructuring aid (see recital (6)) allows for a return to viability 'within a reasonable time scale'.
- (49) Third, the Commission has doubts as to the credibility of the beneficiary's return to viability by 2030.
- (50) The abrupt turnaround from negative financial results in 2029 to positive results in 2030 (see recital (34)) does not appear consistent with the gradual ramp-up in operational and financial performance metrics expected from beneficiaries of restructuring aid. The turnaround does not appear realistic either because it is premised on the abrupt cessation from one year to the other of lignite mining and power generation activities and related costs, especially staff costs. The Modified Restructuring Plan submitted by the Romanian authorities fall short of explaining in particular how the staff cost reduction is expected to be realistically achieved without compromising the avoidance of social hardship that the Commission took into account in the Decision (see recitals (166) to (168) of the Decision).
- (51) Furthermore, CE Oltenia's projected results appear to be premised on optimistic assumptions related to external factors such as the price of CO₂ allowances, a determining factor in the financial pressure on the company in the period 2025–2029. In particular, the estimated environmental costs in the plan (see recital (32)) are based on an average of [70–80] EUR/tonne, while the price expectations range between 83 and 93 EUR/tonne for 2026 ⁽²¹⁾. As of 11 December 2025, the price of CO₂ allowances was already 84 EUR/tonne and is expected to increase further. It follows that the largest expenses included in the cost structure of the company seem to be underestimated, which would lead to a worse financial position of the beneficiary. Therefore, the Commission preliminarily concludes that the financial projections of the Modified Restructuring Plan are based on unrealistic assumptions.

(21) <https://carboncredits.com/eu-carbon-prices-hit-highest-since-august-2023-what-causes-the-surge/>

- (52) The remaining lignite-fired plants (with related mining pits) trigger continuous losses (see recital (30)) and consequently impair viability until replacement with the new gas capacities that are expected to become operational between 2026–2029 (see recital (11)). A faster decommissioning of the lignite-fired plants combined with an earlier commissioning of the new and less carbon-intensive power plants with lower operating costs could reduce losses of CE Oltenia and attain and increase profits faster.
- (53) It follows from the above assessment that, at this stage, the Commission has doubts whether the Modified Restructuring Plan secures the return to viability of CE Oltenia within a reasonable timescale.

3.2.2.2. An increase of restructuring costs requires a corresponding increase in own contribution (point 124(b) of the R&R Guidelines)

- (54) Romania proposes to cover the increase of restructuring costs by means of an increase of the restructuring aid for CE Oltenia in the form of additional grants from the Modernisation Fund. Provided that it is eventually secured, the additional amount would be EUR 202 million (see recital (23)). As stated in recital (208) of the Decision, grants provided by the Modernisation Fund constitute State aid and are not considered as a source of own contribution. Therefore, as Romania plans an increase of the restructuring costs, according to point 124(b) of the R&R Guidelines, 'the own contribution must increase correspondingly'.
- (55) Moreover, as explained in Section 3.5.2.1 of the R&R Guidelines, the own contribution of the beneficiary of restructuring aid must be real and actual and should normally be comparable to the aid granted in terms of effect on the solvency or liquidity position of the beneficiary.
- (56) In the present case, Romania submits that the Modified Restructuring Plan is partly financed with an increase of the own contribution of EUR 3.19 billion, thus reaching, together with the funds already committed under the Initial Restructuring Plan, EUR 4.47 billion (see recital (23)).
- (57) Romania explained that the main additional source of own contribution, namely EUR [...] billion comes from revenues from electricity sales (see recital (26)). More specifically, the revenues generated for the period 2021–2025 will be approximately EUR [...] billion, out of which Romania considers 70% to be own contribution.
- (58) In the present case, whilst tension in energy markets in Romania and neighbouring countries have caused prices and exports of electricity by CE Oltenia to temporarily increase above the level envisaged in the Decision, hence adding to CE Oltenia's operating revenues, the Commission has doubts that these revenues of [...] billion can be accepted as own contribution for the reasons set out below.
- (59) At the outset, the Commission notes that, while point 63 of the R&R Guidelines explains that contributions must be real, that is to say actual, excluding future expected profits such as cash flow, the issue with respect to actual past revenues is twofold.
- (60) First, concerning the revenues generated during the period 2021–2025 now over, these revenues cashed in have been used to cover normal operating costs effectively incurred in the same period, including staff costs, financial costs or depreciation which have been deducted (see recitals (31) and (32)), so that only

net income (profits) generated could at best be considered as own contribution, potentially available to cover expected restructuring costs.

- (61) Second, concerning the period starting from now until the end of the restructuring period -extended to 2029, CE Oltenia is expected to post negative net income (losses) every year because expected revenues are lower than expected costs.
- (62) Even though CE Oltenia may have generated approximately EUR 600 million unexpected net profit until 2025 (see recital (26)), there is no evidence that suggests that CE Oltenia created a reserve or external deposit fed with those profits and set aside to meet restructuring costs expected until end of 2029 or to reduce the amount of restructuring aid or that it has used the unexpected profits to advance the implementation of the plan and its return to long-term viability. Hence from revenues cashed in and used to cover operating costs incurred until the end of 2025, no additional own contribution to financing or covering present or future restructuring costs expected until the end of the restructuring period can be identified at this stage.
- (63) Romania submits that another important source of own contribution is additional bank financing amounting to EUR 356 million (see recital (23)). The Commission notes the progress made by Romania in securing the loan financing and acknowledges that the sufficient advancement of the underlying investments may be a requisite condition for a firm and binding commitment from banks financing them. However, the Commission has not received documented evidence, which would allow concluding that the Mandate Letters from banks constitute a firm and legally binding commitment. Therefore, the Commission has doubts at this stage that the funds referred to in Mandate Letters can be considered as a real and actual own contribution.
- (64) In addition, there was a contribution in-kind provided to the SPVs in the form of land by CE Oltenia, which the Decision considered as valid own contribution and whose value at the time of the Decision was EUR 104 million (see recital (25)). The increase in value of the in-kind contribution by EUR 100 million (from EUR 104 million to EUR 204 million) does not seem to correspond to a new transaction or asset but stems from an updated evaluation of CE Oltenia's land. At this stage, the Commission has doubts whether this increase is based on reliable assumptions and can therefore be considered as sufficiently real and actual own contribution. To be accepted as own contribution, the credibility of that valuation needs first to be confirmed, given that it exceeds by almost 100% the previous valuation of EUR 104 million prepared by PwC and accepted by SPVs' co-investors. Romania should clarify, in this regard, if the new amount refers to the same assets and if so, why their value almost doubled, or if the composition nature or intrinsic value has changed in the meantime.
- (65) In the light of the above, the Commission has doubts whether the sources of financing as proposed by Romania constitute an own contribution to restructuring costs that is real and actual.

3.2.2.3. An increase of the amount of the aid requires more extensive measures to limit distortions of competition

- (66) According to point 124(e) of the R&R Guidelines, if the amount of the aid is increased, measures to limit distortions of competition must be more extensive than those initially imposed.

(67) Despite an EUR 202 million increase in the amount of restructuring aid (see recital (23)) which adversely affects competition and trading conditions, Romania does not propose more extensive structural measures to limit those distortions of competition (see recitals (28) and (29)). Romania merely proposes to maintain or prolong the implementation of those competition measures that were already included in the Decision. For the time being, by not respecting the initial timeline for closure of lignite capacities Romania effectively increases CE Oltenia's presence and production capacity on the market (see recital (28)), compared with the market presence resulting from the timeline approved in the Decision. The Commission acknowledges that Romania proposes some accompanying measures aimed to incentivise proper and faster implementation of the restructuring plan, which are linked to the company's corporate organisation (namely, a commitment that no variable remuneration or bonuses are paid to CE Oltenia's Board members and senior management during the restructuring period, and that public support is strictly allocated to restructuring objectives) and to the implementation of the restructuring plan (namely, the appointment of an independent monitoring trustee approved by the Commission to oversee the implementation of the restructuring measures and to ensure full compliance) (see recital (29)). These measures however neither contribute to the decrease of the company's market share or presence nor do they open the market to actual and potential competitors. Hence, Romania does not put forward any new or more extensive or adequate structural or behavioural competition measures, as required under point 124(c) of the R&R Guidelines, to counterbalance the negative impact on competition of an increased amount of aid and so that the adverse effects on trading conditions are adequately mitigated.

(68) The Commission therefore considers at this stage that the Modified Restructuring Plan falls short of including new or more extensive structural or adequate behavioural measures that offer concrete opportunities for competitors and/or new operators to enter or expand their presence in the electricity market in Romania, which would be necessary to mitigate the negative effects on competition of the additional restructuring aid.

3.2.2.4. In case of limitation of competition measures, the aid amount must be reduced

(69) According to point 124(d) of the R&R Guidelines, if the proposed measures to limit distortions of competition are more limited than those initially imposed, the amount of the aid must be correspondingly reduced.

(70) Romania does not envisage to reduce or otherwise to alter the scope of the measures set out in Article 2 of the Decision. Accordingly, a reduction of the aid amount is not warranted on these grounds.

3.2.2.5. The aid amount must be reduced in case of delayed implementation of competition measures

(71) Pursuant to point 124(e) of the R&R Guidelines, the new timetable for implementation of the measures to limit distortions of competition may be delayed with respect to the timetable initially adopted only for reasons outside the beneficiary's or the Member State's control: if that is not the case, the amount of the aid must be correspondingly reduced.

(72) Romania claims that the prolongation of the timeline for implementing the Initial Restructuring Plan is warranted on grounds of objective factors beyond the beneficiary's or the Member State's control (Section 2.1.2).

- (73) First, the Commission considers that the economic disturbances derived from the aggression against Ukraine by Russia, as well as the broader impact of such exceptional circumstances on certain economic and financial parameters, which have had negative consequences for CE Oltenia, also by driving up CE Oltenia's operational and investment costs (see recitals (15) to (18)), can be considered as reasons beyond the Member State's and the beneficiary's control. Moreover, the consequences of COVID-19 pandemic, the volatility of the energy markets and the increase of CO2 allowances are events, which had repercussions on CE Oltenia, that - by no means - can be attributable to the company or the State. In the same vein, the supply of energy to the neighbouring countries of Ukraine and Moldova can also be considered as non-imputable to a faulty management decision of either CE Oltenia or the Romanian State.
- (74) Second, with regard to the other reasons put forward by the Romanian authorities, however, at this stage, the Commission has doubts that they can be considered objective and outside the control of CE Oltenia or Romania.
- (75) Regarding the lengthy tender award procedures (see recital (19)), the absence of bids in the first stage of the tendering process and the subsequent delays in the negotiations of the shareholders agreements (see recital (20)), do not appear *prima facie* as company-specific or as exceptional events that cannot be attributed to the Member State or the beneficiary. Similarly, the notification and review of the SPVs under the national merger control rules, given also the limited length (three months) of the suspension period in the case at hand, seems a reasonable and common practice in the divestment of assets and, as such, could have been factored in the initial timeline of the plan by the Romanian authorities or CE Oltenia when determining the procedural steps necessary for the application of the award procedures. At any rate, such a limited period does not justify the longer deadline requested for the implementation of the restructuring plan.
- (76) Furthermore, the initial Restructuring Plan did not include the selection of a general contractor for the SPV projects (see recital (19)). Hence, the subsequent decision of the Romanian authorities seems to have directly affected the timeline of the projects, by adding an intermediary step in the implementation process, which cannot be attributed to external factors. With regard to the disputes which arose between the parties while establishing the SPVs with Tinmar (see recital (19)), the Commission considers that this delay, even if it hindered the advancement of the projects and was not triggered by CE Oltenia, cannot be attributed to factors which were completely outside its control. CE Oltenia could have continued its cooperation with Martin Oil, which is part of Tinmar group. Instead, it preferred to file a legal dispute, which additionally delayed the advancement of the projects. As for the delay allegedly due to the investigations of the Commission under the Foreign Subsidies Regulation, such procedures lasted only two months (from 3 April to 7 June 2023), so that the overall process could only be marginally affected.
- (77) In general, the Commission notes that, since appeals in the procurement procedures for major infrastructure projects are common (see recital (19)), they should have been factored in the initial timeline of the plan by Romania and their rapid resolution seems to fall within the scope of the public authorities' intervention. In addition, the Commission doubts that the lengthy legal, compliance and verification processes related to the procurement procedures are not within the control of the beneficiary.

- (78) Similarly, as far as the asset sales is concerned (see recital (21)), the unsuccessful attempts to sell the power plant Chişcăni and other non-core assets, regardless of Romania's best efforts, the divestment of such non-auxiliary operations is not *prima facie* outside the control of the beneficiary or its main shareholder, Romania.
- (79) It follows that, at this stage, the Commission has doubts whether the factors put forward by Romania for the delay with respect to the timetable provided in the Decision – other than factors such as the lagged effects of the COVID 19 pandemic and the war in Ukraine – were outside Romania's or CE Oltenia's control and, accordingly, whether the amount of the approved restructuring aid should be reduced correspondingly (which is not proposed by Romania).
- (80) Moreover, point 125 of the R&R Guidelines provides that if the conditions imposed by the Commission or the commitments given by the Member State are relaxed, the amount of aid must be correspondingly reduced, or other conditions may be imposed.
- (81) In this respect, whilst Romania remains committed to implementing the measures reducing distortions of competition set out in Article 2 of the Decision, the delay in phasing-out lignite powered units/plants has the indirect consequence that CE Oltenia's production capacity is at present and next year(s) greater than committed to in the Initial Restructuring Plan (see recital (13)).
- (82) The Decision provided that along with the proposed competition measures, the overall decrease of CE Oltenia's production capacity would bring a decrease of CE Oltenia's presence on the market and thus will lead to a certain degree of market opening (see recital (235) of the Decision), respectively with a net available capacity of approximately [...] MW (see recital (9)).
- (83) However, due to delayed timeline in phasing-out lignite capacities, the Modified Restructuring Plan outlines a surplus in terms of lignite-fired generation capacity of [...] MW compared to Romania's commitments (see recital (10) and Table 2).
- (84) Deviations from the original commitments of Romania appear thus to be manifest, comprising annual increments in generation capacities from [...] MW in 2021, to [...] MW in 2023 and [...] MW in 2029 (see Tables 1 and 2), indicating that the requirement to reduce the market presence of CE Oltenia as per the adopted plan would not be met by the Modified Restructuring Plan.
- (85) Furthermore, the Modified Restructuring Plan delays the closure of the remaining mining pits gradually from end of 2025 until end of 2029 (see recital (13) and Table 3), that trigger increased lignite volumes extracted (between [8.5-10.5] mil. tonnes in 2026 and [7-9] mil. tonnes in 2029) with a corresponding rise of lignite-fired electricity produced between [5.15-5.30] TWh in 2025 and [4.85-5] TWh in 2029, corroborating, in terms of output the conclusion regarding generation capacity.
- (86) The exact increments in production capacities should be confirmed by the investigation taking also into account Article 2(1)(a) of the Decision in what regards its National Recovery and Resilience Plan (RRP) (see recital (7)), in particular that the production capacities according to the Modified Restructuring Plan shall duly take into account the commitments already taken by Romania in the RRP context.
- (87) It follows from the assessment that, at this stage, the Commission has doubts whether the relaxation of the commitments set out in the Decision warrants that

other conditions be imposed or the reduction of the approved amount of restructuring aid.

3.2.3. Conclusion on compatibility

- (88) The Commission has therefore doubts at this stage about the compatibility of the Modified Restructuring Plan with the requirements with regard to amendments of restructuring plans set out in points 124 and 125 of the R&R Guidelines.
- (89) In particular, the Commission has doubts regarding: (i) the reasonableness of the duration until the end of 2029 of the Modified Restructuring Plan and the return to viability of CE Oltenia at the end of it – point 124(a) of the R&R Guidelines; (ii) the extent of the own contribution proposed by Romania which must increase correspondingly to the increased restructuring costs – point 124(b) of the R&R Guidelines; (iii) the existence of additional measures mitigating distortions of competition created by the additional restructuring aid – point 124(c) of the R&R Guidelines; (iv) the delays in implementation of key steps of CE Oltenia's Restructuring Plan for reasons which are outside of the beneficiary's or Member State's control – point 124(e) of the R&R Guidelines and (v) whether the relaxation in time of the conditions – to which the compatibility of the approved restructuring aid is subject – warrants a reduction of the aid amount or that additional conditions to be imposed – point 125 of the R&R Guidelines.

4. DECISION

In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the TFEU, requests Romania to submit its comments and to provide all such information as may help to assess the aid, within one month of the date of receipt of this letter.

It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

The Commission wishes to remind Romania that Article 108(3) of the TFEU has suspensory effect, and would draw your attention to Article 16 of Council Regulation (EU) 2015/1589, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns Romania that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Union. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the Official Journal of the European Union and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Teresa RIBERA
Executive Vice-President

